

O'NEILL / HASSEN

Attorneys at Law

August 28, 2019

VIA ECF and Email

Honorable Paul G. Gardephe
United States District Judge
United States Courthouse
40 Foley Square
New York, NY 10007

RE: *United States v. Omar Amanat*, 15 Cr 536 (PGG)

Dear Judge Gardephe:

I represent Omar Amanat in the above-captioned matter. I write to clarify our position with respect to the *Fatico* hearing currently scheduled for September 5, 2019. As the Court is aware, we were originally appointed to advise Mr. Amanat about a potential conflict of interest with Randall Jackson's representation. Mr. Jackson had worked with Spyros Enotiades when he was an assistant United States Attorney and had maintained a relationship with him when he transitioned into private practice. We write to request that the *Fatico* hearing be adjourned and that the Court set a briefing schedule in advance of the *Fatico* hearing so that the *Fatico* hearing can be combined with litigation about potential due process violations and because we are unavailable on September 5, 2019.

The Court acknowledged that there was a potential conflict of interest based on Mr. Jackson's work in the US Attorney's office, his continued acquaintanceship with Mr. Enotiades, and his representation of Mr. Amanat. However, the Court allowed Mr. Amanat to waive the conflict to allow Mr. Jackson's continued work on the issue of loss amount and appointed me to represent Omar Amanat for the remainder of the case.

The government has alleged that Irfan Amanat and Omar Amanat asked Spyros Enotiades to create a fake bank account to falsely show that a witness in their case received money from a Russian oligarch in exchange for his testimony.

We do not, as yet, have the discovery we need to determine whether Mr. Amanat has grounds for a new trial, or some other relief, based on due process violations. We do not write to provide an exhaustive list of errors or issues, but rather to provide some background information for the Court.

The government provided some 3500 material relating to Spyros Enotiades to Omar Amanat in March of this year, including a portion of Whats App messages that appear to be between Omar Amanat and Spyros Enotiades, and notes from interviews that it conducted with Mr. Enotiades in 2018. The government did not provide any of the following: 1) All messages between the two Whats App accounts or any Whats App

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messages with other accounts purportedly belonging to Omar Amanat or Irfan Amanat; 2) Prior trial testimony where Mr. Enotiades was impeached; 3) Information about benefits, including immigration, tax, or financial that Mr. Enotiades has received in exchange for his testimony and proactive work on behalf of the government; 4) Communications between Mr. Enotiades and the agents working on the case, including messages between Mr. Enotiades and FBI Agent Ed Rom; 5) Notes from meetings where Mr. Enotiades discussed Mr. Amanat with members of the government prior to Mr. Amanat's trial; 6) Notes from meetings with Mr. Enotiades regarding *USA v. Hernandez-Solarte*, 18 Cr. 262 (VEC); 7) Any information from cases where Mr. Enotiades purported to or did in fact create "fake" bank accounts either alone or at the behest of the government; or 8) Any other information that should be provided pursuant to *Brady*, *Giglio*, and their progeny. We are entitled to all of the preceding information in advance of any *Fatico* hearing.

Mr. Enotiades was actively working for the Southern District of New York and communicating with Mr. Amanat many times a day in the leadup to, and throughout, Mr. Amanat's trial.¹ From the text messages the government has provided, it is clear that Mr. Amanat believed he had retained Mr. Enotiades, as an advisor to shepherd him through the process of providing substantial assistance to the government and thereby attaining a 5k letter.² Mr. Enotiades required numerous favors from Mr. Amanat, including monetary payments and seemingly unrelated real estate deals on behalf of Enotiades' friends and clients.³ Throughout their contact, Mr. Enotiades told Mr. Amanat that he was meeting with the government on his behalf, and communicating with multiple agents.⁴ Mr. Enotiades repeatedly told Mr. Amanat that he was on the path to receiving his 5k letter, or having his charges dismissed.⁵ All of this sounds ludicrous to those of us who are familiar with the criminal justice process. However, to Mr. Amanat, who had read a

¹ The final text message we have in the 3500 material thus far provided is from 10/15/2017, however the government also provided Whats App message that date to after the trial.

² See, e.g. 3558-18 p. 2. (Enotiades has not received information he requested at an earlier meeting, and he asks Mr. Amanat if he is still in "need of the program [they] spoke about yesterday." Mr. Amanat replies that he "definitely want[s] to proceed." Enotiades then asks Mr. Amanat for the name of the case agent and prosecutors.

³ The text messages reference monetary payment: See, e.g., 3558-08 p.10. Enotiades: "I need to pay today and what I was promised has not been completed... I cannot stay longer than tomorrow... change of tickets and hotel expenses etc...! Why is it always so hard to have a plan that can be kept? Already extended by one day ...". Response: "OK I just heard this Its being taken care of."

⁴ See, e.g., 3558-18 p. 27, Enotiades: "I had to come to Long Island to see John re you and K cases because now I feel the pressure and must rush everything. Will talk later".

⁵ See, 3558-18 p.5 "Everything is very good so far. I will know if 100% after this." See also, 3558-18 p. 9, "We have already covered more than 50% of this case." 3558-18 p. 28, Enotiades: "And I believe we are getting the coop we need from here 😊"

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profile in *The Guardian* about how Mr. Enotiades did in fact work for the DEA, Enotiades' promises were his path to freedom.⁶

In the months prior to trial, instead of preparing to respond to the government's case against him, Mr. Amanat spent his time "working" for Mr. Enotiades, under the mistaken belief that if he followed Mr. Enotiades's instructions his case would be dismissed or his sentence somehow reduced. It is clear from the text messages that Mr. Enotiades was guiding Mr. Amanat in his movements and decisions, influencing even his choice of counsel.⁷

Mr. Enotiades is not technically a salaried employee of the federal government. He is, however, a contractor who has worked for the DEA for 30 years. He is not a typical informant, but rather an extremely valuable high-level operative who the government pays in large lump sums instead of a salary.

Mr. Enotiades' involvement with Omar Amanat throughout this case poses significant constitutional and due process issues that must be investigated and addressed. This matter is extremely complex.

Additionally, unfortunately we have a conflict with September 5, 2019, the date chosen for the *Fatico* hearing in my absence. I have had two other matters previously scheduled that day.

We respectfully request that the Court set a briefing schedule in advance of the *Fatico* hearing to allow us to combine the *Fatico* hearing with any other motions that will be made in conjunction with Mr. Enotiades' involvement with the case. We are happy to discuss a timeline with all parties should the Court grant this application. We thank the Court in advance for its careful attention to this matter.

Kind regards,

/s/

Grainne E. O'Neill
Attorney for Omar Amanat

⁶ See, Yudhijit Bhattacharjee, *The Sting: An American Drugs Bust In West Africa*, *The Guardian*, Mar. 17, 2015, available at: <https://www.theguardian.com/world/2015/mar/17/the-sting-american-drugs-bust-liberia>

⁷ See, 3558-18 p. 32, Amanat: "Can you meet w[ith] me and my lawyer? I can't wait for Randall...".